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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/567,826 | 03/06/2006 | Kenichi Miyoshi | L9289.06115 | 2110 |
| 53989 7590 09/05/2008 DICKINSON WRIGHT PLLC 1901 L STREET NW SUITE 800 WASHINGTON, DC 20036 | | | EXAMINER BERHANE, YOSIEF H | |
| | | | ART UNIT 4144 | PAPER NUMBER |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/567,826

Applicant(s)

MIYOSHI, KENICHI

Examiner

YOSIEF BERHANE

Art Unit

4144

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 06 March 2006.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-6 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 06 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-85/86)
Paper No(s)/Mail Date 02/10/2006
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Inventor's Patent Application
6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-6 have been examined and are pending.

Information Disclosure Statement

2. An initialed and dated copy of Applicant's IDS form 1449 submitted 2/10/2006, is attached to the instant Office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dutnall (US patent 6,584,098) in view of Sen et al, hereinafter referred to as Sen, (US patent (6330451).

Regarding claims 1 and 6, Dutnall teaches a channel type detector (fig. 5 box 23) that detects whether a type of channel is the bearer channel/circuit switched (fig. 5 box 24) or the packet channel (fig. 5 box 50) for each session (signals identified and routed according to whether the are conventional digitized telephone signal or Internet protocol, col. 4 lines 48-58).

Although Dutnall teaches circuit switched calls are delay intolerant (delay-intolerant circuit-switched, col. 4 lines 1-9), the reference is silent on and a delay adder that delays a packet transmitted on the packet channel when the detected type of channel is the packet channel.

Sen teaches selectively delaying data communication in order to provide better quality for voice communications (col. 1 line 44-48). Note; the examiner corresponds the applicant's packet-channel and bearer-channel to the data communication and voice communication respectively of the reference.

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention, to modify the system of Dutnall by delaying packet channel data, as suggested by Sen. The suggestion for the modification is because voice communication is delay-intolerant (Dutnall, col. 4 lines 1-9). This modification would benefit the system by ensuring that voice calls are processed without delay.

3. Claims 2, 3 and 5 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Dutnall (US patent 6,584,098) in view of Sen (US 6330451).

Regarding claim 2, the combination of Dutnall and Sen teach the system and method of claim 1. Furthermore, Dutnall teaches the base station apparatus according to claim 1, further comprising a packet type detector that detects a type of packet (Dutnall discloses wherein a gateway node inspects packets in order to determine the type of incoming packets. Col. 11 lines 32-40)

wherein the delay adder delays a predetermined type of packet (Dutnall discloses where predetermined packets are prioritized so they are executed first, hence non-prioritized packets are further delayed. Col 3 lines 33-37).

Regarding claim 3 Dutnall teaches the base station apparatus according to claim 2, further comprising a protocol detector that detects a protocol or a flag in an IP header, wherein the packet type detector detects the type of packet based on the protocol or the flag (Dutnall

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discloses where IP headers are used in order to detect Voice over IP" (VoIP), using a protocol known as "User Datagram Protocol" (UDP). Col 3 lines 23-31).

Regarding claim 5, the combination of Dutnall and Sen teach the system and method of claim 1. Furthermore, the combination of Dutnall and Sen teach the base station apparatus according to claim 1, wherein the delay adder delays the packet transmitted on the packet channel only when execution of delay processing is instructed from an upper station that monitors an amount of transmitted data. (Sen discloses where a base station controller constructed according to the present invention adds delay to serviced data communications to provide sufficient capacity for voice communications. col. 10 lines 50-54)

The examiner provides the same rationale as provided for claim 1 as the motivation for combining Dutnall and Sen. The rationale being, it would have been obvious to one of ordinary skill in the art at the time of the invention, to modify the system of Dutnall by delaying packet channel data, as suggested by Sen. The suggestion for the modification is because voice communication is delay-intolerant (Dutnall, col. 4 lines 1-9). This modification would benefit the system by ensuring that voice calls are processed without delay.

4. Claim 4 is rejected under 35 U.S.C. 103 (a) as being unpatentable over Dutnall (US patent 6,584,098) in view of Mochida et al. (hereinafter referred to as Mochida) to pub No. US 20020026310 A1.

Regarding claim 4, Dutnall teaches the base station apparatus according to claim 2, further comprising a generation period detector that detects a generation period of packet (Dutnall discloses that internet protocols such as RTP are used for VOIP. Furthermore, he adds

that the RTP protocol "time stamps" an individual packet. It is well known in the art that a timestamp is used to track the time a specific packet was created/generated. Col. 9 lines 54-58)

Although Dutnall discloses that RTP is used for VOIP, which includes a header that identifies the format as well as the creation of the packet with the use of a timestamp, Dutnall is silent on the claim language wherein the packet type detector detects the type of packet (Col. 11 lines 32-40) based on a size relationship between an average value of the generation period of packet and a predetermined threshold

However Mochida teaches a means for monitoring and distinguishing between real-time and non-real time packets depending on packet length, size of jitter buffer, and a preset threshold value (Mochida, paragraph 17, a decoding unit for decoding data stored in the jitter absorbing buffer; packet number judging means for measuring a total number of packets stored in said jitter absorbing buffer and for comparing the measured total packet number with a preset threshold value, data discarding means for discarding either a portion or all of the packets stored in the jitter absorbing buffer based upon the comparison result of the continuation monitoring timer.).

The examiner provides the same rationale as provided for claim 1 as the motivation for combining Dutnall and Mochida. The rationale being, it would have been obvious to one of ordinary skill in the art at the time of the invention, to modify the system of Dutnall by detecting packets based on size and threshold value, as suggested by Mochida. The suggestion for the modification is because voice communication is delay-intolerant (Dutnall, col. 4 lines 1-9). This modification would benefit the system by ensuring that voice calls are processed without delay.

Conclusion

5. Prior arts made of record, not relied upon:

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US 6961331 B2 to Tokunaga et al. discloses an IP gateway apparatus

US 20030227907 A1 to Choi et al. discloses an Apparatus for providing QoS of VoIP traffic on IP router and forwarding method therefore

US 20040032860 A1 to Mundra et al. which discloses Quality of voice calls through voice over IP gateways

US 7372847 B2 to Tommi Koistinen which discloses a Data call routing on IP connections

US 6269095 B1 to Neubauer et al. which discloses B-channel synchronization for G 723 1 vocoding

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yosief Berhane whose telephone number is (571) 274-7164. The examiner can normally be reached at 7:30-5:00 Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Taghi T. Arani can be reached at (571) 272-3787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Y.B/

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/Ronald Abelson/

Primary Examiner, Art Unit 2619